

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CALAN BEASLEY,

Plaintiff,

- against -

COMPLEX MEDIA, INC.

Defendant.

Docket No. 1:19-cv-00401

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Calan Beasley (“Beasley” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Complex Media, Inc. (“Complex” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of former American rapper and singer XXXTentacion, owned and registered by Beasley, a professional photographer. Accordingly, Beasley seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Beasley is a professional photographer in the business of licensing his photographs to online and print media for a fee having a usual place of business at 7001 Maple Avenue, Cincinnati, Ohio 45243.

6. Upon information and belief, Complex is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business 1271 Avenue of the Americas, 35th Floor, New York, New York 10020. Upon information and belief Complex is registered with the New York Department of State Division of Corporations to do business in the State of New York. At all times material, hereto, Complex has owned and operated a website at the URL: www.Complex.com (the “Website”) and has operated a YouTube Pigeons & Planes YouTube Page (“YouTube Page”)

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Beasley photographed former American rapper and singer XXXTentacion (the “Photograph”). A true and correct copy of the Photograph are attached hereto as Exhibit A.

8. Beasley is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-130-817.

B. Defendant’s Infringing Activities

10. On August 25, 2017, Complex ran an article entitled *What’s the Appeal of XXXTentacion’s Music?* See URL: <https://www.complex.com/music/2017/08/what-makes->

xxxtentacions-music-appealing. The article featured the Photograph. A true and correct copy of the article and a screenshot of the Photograph on the article is attached hereto as Exhibit B.

11. On November 2, 2017, Complex ran another article on the Website titled *XXXTentacion Previews New Music a Week After Saying He's Quitting Music*. See URL: <https://www.complex.com/music/2017/11/xxxtentacion-previews-new-music-after-quitting-music>. The article featured the Photograph. A true and correct copy of the article and a screenshot of the Photograph on the article is attached hereto as Exhibit C.

12. Complex ran the Photograph on a video on their Youtube Page: <https://www.youtube.com/watch?v=Ll7srsp-1v0&feature=youtu.be>. A screenshot of the Photograph on their YouTube Page is attached hereto as Exhibit D.

13. Complex did not license the Photograph from Plaintiff for its articles, nor did Complex have Plaintiff's permission or consent to publish the Photograph on its Website or YouTube Page.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

14. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-13 above.

15. Complex infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website and YouTube Page. Complex is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

16. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

17. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

18. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Complex be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded punitive damages for copyright infringement;
5. That Plaintiff be awarded attorney's fees and costs;
6. That Plaintiff be awarded pre-judgment interest; and
7. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
January 14, 2019

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